

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

SCOTT EDWARD MOORMAN,

Petitioner,

vs.

LACY LINCOLN, HILL COUNTY
ATTORNEY; ATTORNEY
GENERAL OF THE STATE OF
MONTANA,

Respondent.

CV 22-70-GF-BMM-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Findings and Recommendations in this case on August 12, 2022. (Doc. 4.) Magistrate Judge Johnston recommended that the Court dismiss without prejudice Petitioner Scott Edward Moorman's Amended Habeas Petition. (Doc. 1.) Magistrate Judge Johnston found that Moorman has failed to exhaust his available judicial and administrative remedies as 28 U.S.C. §2241 requires. (Doc. 4. At 3-6.) Moorman filed objections to Magistrate Judge John Johnston's Findings and Recommendations on August 24, 2022. (Doc. 5.)

The Court reviews de novo those Findings and Recommendations to which a party timely objected. 28 U.S.C. § 636(b)(1). The Court reviews for clear error the

portions of the Findings and Recommendations to which the party did not specifically object. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Where a party's objections constitute perfunctory responses argued in an attempt to engage the district court in a reargument of the same arguments set forth in the original application, however, the Court will review the applicable portions of the findings and recommendations for clear error. *Rosling v. Kirkegard*, 2014 WL 693315 *3 (D. Mont. Feb. 21, 2014) (quoting *Ramirez v. United States*, 898 F.Supp.2d 659, 663 (S.D.N.Y.2012)).

Moorman's objections advance the same arguments that he raised before, both in his original pleading and his amended petition. The Court will not engage in Moorman's attempt to reargue these same issues. The Court has reviewed Magistrate Judge John Johnston's Findings and Recommendations for clear error. The Court finds no error.

Accordingly, **IT IS ORDERED** that Magistrate Judge John Johnston's Findings and Recommendations (Doc. 4) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that Moorman's Petition (Doc. 3) is **DISMISSED WITHOUT PREJUDICE**.

The Clerk of Court is directed to enter judgment in favor of Respondents and against Petitioner.

A certificate of appealability is **DENIED**. The Clerk of Court shall immediately process the appeal if Moorman files a Notice of Appeal.

DATED this 28th day of September, 2022.

A handwritten signature in blue ink that reads "Brian Morris". The signature is fluid and cursive, with the first name "Brian" and last name "Morris" clearly distinguishable.

Brian Morris, Chief District Judge
United States District Court